

4140

2015-2016 Regular Sessions

I N A S S E M B L Y

January 29, 2015

Introduced by M. of A. GOTTFRIED -- read once and referred to the
Committee on Higher Education

AN ACT to amend the public health law, the education law, the general
business law and the vehicle and traffic law, in relation to making
conforming changes reflecting the previously authorized scope of prac-
tice of nurse practitioners

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivisions 4 and 5 of section 3602 of the public health
2 law, as amended by chapter 600 of the laws of 2002, are amended to read
3 as follows:
4 4. "Home health aide services" means simple health care tasks,
5 personal hygiene services, housekeeping tasks essential to the patient's
6 health and other related supportive services. Such services shall be
7 prescribed by a physician in accordance with a plan of treatment for the
8 patient and shall be under the supervision of a registered professional
9 nurse from a certified home health agency or, when appropriate, from a
10 provider of a long term home health care program and of the appropriate
11 professional therapist from such agency or provider when the aide
12 carries out simple procedures as an extension of physical, speech or
13 occupational therapy. Such services may also be prescribed or ordered by
14 a nurse practitioner to the extent authorized by law and consistent with
15 [the written practice agreement pursuant to] subdivision three of
16 section six thousand nine hundred two of the education law and not
17 prohibited by federal law or regulation.
18 5. "Personal care services" means services to assist with personal
19 hygiene, dressing, feeding and household tasks essential to the
20 patient's health. Such services shall be prescribed by a physician in
21 accordance with a plan of home care supervised by a registered profes-
22 sional nurse. Such services may also be prescribed or ordered by a nurse
23 practitioner to the extent authorized by law and consistent with [the

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 written practice agreement pursuant to] subdivision three of section six
2 thousand nine hundred two of the education law and not prohibited by
3 federal law or regulations.

4 S 2. Subdivision 1 of section 579 of the public health law, as amended
5 by chapter 444 of the laws of 2013, is amended to read as follows:

6 1. This title is applicable to all clinical laboratories and blood
7 banks operating within the state, except clinical laboratories and blood
8 banks operated by the federal government and clinical laboratories oper-
9 ated by a licensed physician, osteopath, dentist, midwife, nurse practi-
10 tioner, optometrist performing a clinical laboratory test that does not
11 use an invasive modality as defined in section seventy-one hundred one
12 of the education law or podiatrist who performs laboratory tests or
13 procedures, personally or through his or her employees, solely as an
14 adjunct to the treatment of his or her own patients; to the extent
15 authorized by federal and state law, including the education law[, and
16 consistent with any applicable written practice agreement].

17 S 3. Paragraph a of subdivision 2 of section 902 of the education law,
18 as amended by chapter 477 of the laws of 2004, is amended to read as
19 follows:

20 a. The board of education, and the trustee or board of trustees of
21 each school district, shall employ, at a compensation to be agreed upon
22 by the parties, a qualified physician, or a nurse practitioner to the
23 extent authorized by the nurse practice act and consistent with [the
24 written practice agreement pursuant to] subdivision three of section six
25 thousand nine hundred two of this chapter, to perform the duties of the
26 director of school health services, including any duties conferred on
27 the school physician or school medical inspector under any provision of
28 law, to perform and coordinate the provision of health services in the
29 public schools and to provide health appraisals of students attending
30 the public schools in the city or district. The physicians or nurse
31 practitioners so employed shall be duly licensed pursuant to applicable
32 law.

33 S 4. Subdivision 1 of section 903 of the education law, as separately
34 amended by section 11 of part B of chapter 58 and chapter 281 of the
35 laws of 2007, is amended to read as follows:

36 1. A health certificate shall be furnished by each student in the
37 public schools upon his or her entrance in such schools and upon his or
38 her entry into the grades prescribed by the commissioner in regulations,
39 provided that such regulations shall require such certificates at least
40 twice during the elementary grades and twice in the secondary grades. An
41 examination and health history of any child may be required by the local
42 school authorities at any time in their discretion to promote the educa-
43 tional interests of such child. Each certificate shall be signed by a
44 duly licensed physician, physician assistant, or nurse practitioner, who
45 is authorized by law to practice in this state, and consistent with [any
46 applicable written practice agreement] SUBDIVISION THREE OF SECTION SIX
47 THOUSAND NINE HUNDRED TWO OF THIS CHAPTER, or by a duly licensed physi-
48 cian, physician assistant, or nurse practitioner, who is authorized to
49 practice in the jurisdiction in which the examination was given,
50 provided that the commissioner has determined that such jurisdiction has
51 standards of licensure and practice comparable to those of New York.
52 Each such certificate shall describe the condition of the student when
53 the examination was made, which shall not be more than twelve months
54 prior to the commencement of the school year in which the examination is
55 required, and shall state whether such student is in a fit condition of
56 health to permit his or her attendance at the public schools. Each such

1 certificate shall also state the student's body mass index (BMI) and
2 weight status category. For purposes of this section, BMI is computed
3 as the weight in kilograms divided by the square of height in meters or
4 the weight in pounds divided by the square of height in inches multi-
5 plied by a conversion factor of 703. Weight status categories for chil-
6 dren and adolescents shall be as defined by the commissioner of health.
7 In all school districts such physician, physician assistant or nurse
8 practitioner shall determine whether a one-time test for sickle cell
9 anemia is necessary or desirable and he or she shall conduct such a test
10 and the certificate shall state the results.

11 S 5. Paragraph e of subdivision 1 of section 406 of the general busi-
12 ness law, as amended by chapter 600 of the laws of 2002, is amended to
13 read as follows:

14 e. Each application shall be accompanied by a certificate of a duly
15 licensed physician, or nurse practitioner to the extent authorized by
16 law and consistent with [the written practice agreement pursuant to]
17 subdivision three of section six thousand nine hundred two of the educa-
18 tion law on a form prescribed by the secretary, showing freedom from any
19 infectious or communicable disease which certificate shall have been
20 issued within thirty days prior to the date of the filing of the appli-
21 cation.

22 S 6. Subdivision 3 of section 433 of the general business law, as
23 added by chapter 801 of the laws of 1946, is amended to read as follows:

24 3. To require all persons licensed or registered under this article to
25 submit to physical examination by a physician OR NURSE PRACTITIONER
26 selected by the secretary of state.

27 S 7. Paragraph (c) of subdivision 1 of section 434 of the general
28 business law, as amended by chapter 64 of the laws of 1988, is amended
29 to read as follows:

30 (c) The certificate of a duly licensed physician OR NURSE
31 PRACTITIONER, on a form prescribed by the secretary of state, showing
32 freedom from any infectious or communicable disease which certificate
33 shall have been issued within thirty days prior to the date of the
34 filing of the application;

35 S 8. Subdivision 4 of section 404-a of the vehicle and traffic law, as
36 amended by chapter 686 of the laws of 1994, the opening paragraph and
37 paragraph (c) as amended by chapter 277 of the laws of 2012, is amended
38 to read as follows:

39 4. Issue of plates. The commissioner shall issue sets of plates to
40 such person in accordance with subdivision two of this section with
41 proof of such disability of such person or such members of his or her
42 family certified by a physician, physician assistant or nurse practi-
43 tioner, to the extent authorized by law[, including the education law,]
44 and consistent with [any applicable written practice agreement] SUBDIVI-
45 SION THREE OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THE EDUCATION
46 LAW, or podiatrist pursuant to subdivision four-a of this section or
47 optometrist pursuant to subdivision four-b of this section, to the
48 satisfaction of the commissioner who is empowered to carry out the
49 effects of this section by formulating rules and regulations.

50 For the purposes of this section, a "severely disabled person" shall
51 mean any person having any one or more of the following impairments,
52 disabilities or conditions which are permanent in nature:

53 (a) Has limited or no use of one or both lower limbs;

54 (b) Has a neuro-muscular dysfunction which severely limits mobility;

55 (c) Has a physical or mental impairment or condition which is other
56 than those specified above, but is of such nature as to impose unusual

1 hardship in utilization of public transportation facilities and such
2 condition is certified by a physician, physician assistant or nurse
3 practitioner, to the extent authorized by law[, including the education
4 law,] and consistent with [any applicable written practice agreement]
5 SUBDIVISION THREE OF SECTION SIX THOUSAND NINE HUNDRED TWO OF THE EDUCA-
6 TION LAW, duly licensed to practice [medicine] in this state, or, pursu-
7 ant to subdivision four-a of this section, a podiatrist duly licensed to
8 practice podiatry in this state or, pursuant to subdivision four-b of
9 this section, an optometrist duly licensed to practice optometry in this
10 state, as constituting an equal degree of disability (specifying the
11 particular condition) so as to prevent such person from getting around
12 without great difficulty in accordance with subdivision two of this
13 section; or

14 (d) A blind person.

15 S 9. Paragraph (b) of subdivision 5 of section 404-a of the vehicle
16 and traffic, as amended by chapter 277 of the laws of 2012, is amended
17 to read as follows:

18 (b) The commissioner may require the applicant for registration to
19 furnish such proof of his or her disability or such proof of disability
20 of such members of his or her family from a physician, physician assist-
21 ant or nurse practitioner, to the extent authorized by law[, including
22 the education law,] and consistent with [any applicable written practice
23 agreement] SUBDIVISION THREE OF SECTION SIX THOUSAND NINE HUNDRED TWO OF
24 THE EDUCATION LAW, or podiatrist pursuant to subdivision four-a of this
25 section or optometrist pursuant to subdivision four-b of this section,
26 as the commissioner deems necessary either for initial registration or
27 renewal thereof; provided, however, that a handicapped or disabled
28 permit issued by a municipality to such applicant pursuant to section
29 twelve hundred three-a of this chapter shall be deemed sufficient proof
30 of disability for purposes of this paragraph.

31 S 10. Subdivision 1 of section 509-g of the vehicle and traffic law,
32 as amended by chapter 149 of the laws of 2011, is amended to read as
33 follows:

34 1. A biennial examination pursuant to regulations established by the
35 commissioner, by a physician, a certified nurse practitioner to the
36 extent authorized by law and consistent with [the written practice
37 agreement pursuant to] subdivision three of section six thousand nine
38 hundred two of the education law, or a registered physician assistant
39 who is not the personal physician, nurse practitioner or physician
40 assistant of the driver. Included shall be a requirement to conduct a
41 vision test pursuant to regulations issued by the commissioner.

42 S 11. The amendments to the public health law, the education law, the
43 general business law and the vehicle and traffic law enacted by this act
44 shall not be construed to expand or contract the scope of practice of
45 any health care professional under title 8 of the education law.

46 S 12. This act shall take effect immediately.